(93)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ.
HON'BLE SHRI V.K. SHRIVASTAVA, J.

Writ Petition (C)No.6060 OF 2006

PETITIONER Bhaiyalal Jaiswal, S/o Late Shri Bachchalal Jaiswal, Aged about 80 years, R/o Manendragarh, District Korea (Chhattisgarh)

Versus

RESPONDENTS

1. State of Chhattisgarh through Secretary, Department of Excise, Mantralaya, Dau Kalyan Singh Bhawan, Raipur (Chhattisgarh)
2. Commissioner (Excise), Chhattisgarh, Raipur (C.G.)
3. Collector (Excise), District Janjgir-Champa (Chhattisgarh)
4. Additional Commissioner, District Janjgir Champa (Chhattisgarh)

Present : Shri Amrito Das, learned counsel for the petitioner.

Shri Prashant Mishra, learned Addl. A.G. with Shri Utkarsh Verma, learned Dy. G.A. for the State of Chhattisgarh.

ORAL ORDER
(Passed on 08-11-2006)

The following oral order of the Court was passed by

S.R. Nayak, CJ.

If we may say so, this writ petition is totally misconceived and the reliefs sought cannot be granted for more than one reason.

(2) The facts are simple and straightforward. The petitioner was granted licence to establish three shops within the municipal limits of Sheorinarayan Municipality. All those licences are nullified either by the action of the Statutory Authorities or by virtue of the order made by this Court. Thereafterwards, it appears that the Collector, Janjgir-Champa,

the 3rd respondent herein, has called for applications from the eligible candidates for granting licences to establish liquor shops outside the municipal limits of Sheorinarayan Municipality. When the matter stood thus, the present writ petition was filed praying for the following reliefs:

"7 Relief Sought :

7.1 This Hon'ble Court may kindly be pleased to call for the entire records concerning the present allotment form the possession of the respondent authorities.

7.2 This Hon'ble Court may kindly be pleased to issue an appropriate writ in the nature of mandamus directing the respondents to a lot the licence of the two shops at the new locations in lieu of the two shops previously granted to the petitioner.

7.3 This Hon'ble Court may kindly be pleased to issue an appropriate writ in the nature of mandamus directed the respondents not to allot the licence for the shops at the new location at Tushma and Kharaud to any third party.

7.4 Any other relief/relief's which this Hon'ble Court may think fit and proper in the facts and circumstances".

(3) We have heard learned counsel for the parties.

(4) It was contended before us that since the three licences granted by the Collector were nullified on the ground that in terms of the administrative instructions issued by the Commissioner of Excise, liquor shops ought not to have been established within the municipal limits of Sheorinarayan Municipality, it is fair and just that the Collector should allow the petitioner to establish the shops atleast outside the limits of Sheorinarayan Municipality, and that notwithstanding the demand made by the petitioner to specify place outside Sheorinarayan Municipality

where the petitioner can establish shops, the Collector did not take any steps to specify the locality where the petitioner could shift the shops.

(5) It needs to be noticed at the threshold that this Court while quashing the licences granted in favour of the petitioner, in Writ Petition Nos. 2584 of 2006 and 2191 of 2006 on 27th June 2006, did not permit the petitioner nor direct the respondents-State Authorities to permit the petitioner to shift the liquor shops from the limits of Sheorinarayan Municipality to outside the municipal limits of Sheorinarayan Municipality. Since the licence granted to the petitioner has been quashed by this Court, which order has become final, permitting the petitioner to shift the shops outside the limits of Sheorinarayan Municipality would not arise. If the petitioner is desirous of establishing the shops outside the limits of Sheorinarayan Municipality, he has to compete with the other applicants and it is open for him to apply for grant of licence for establishing the shops outside the limits of Sheorinarayan Municipality. Therefore, none of the reliefs sought in this writ petition can be granted in favour of the petitioner in terms of law. The petitioner has no existing right to claim such reliefs. The writ petition is devoid of merit as well as misconceived. It is accordingly dismissed. No costs.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Chief Justice

Kamde